

§5108. Eminent domain

The authority may acquire all or any part of the real property within the renewal project area by the exercise of the power of eminent domain whenever the authority determines that the acquisition of the real property is in the public interest or necessary for the public use. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Resolution; documents filed; damages determined. The necessity for this acquisition is conclusively presumed upon the authority's adoption of a resolution declaring that the acquisition of the real property described in the resolution is in the public interest and necessary for the public use and that the real property is included in an approved urban renewal project under this chapter.

A. Within 3 months after this resolution is adopted, the authority shall have filed in the county registry of deeds:

- (1) A copy of the authority's resolution;
- (2) A plat of the real property described; and
- (3) A statement, signed by the chairman of the authority, that the real property is taken under this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. When these materials are filed, the authority shall determine the damages for the real property taken in the same manner as provided for land taken for highway purposes under Title 23, chapter 3, and shall file a statement of this determination in the Superior Court of the county. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
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2. Title vests in authority; bonds deposited. Title to the real property shall vest in the authority in fee simple absolute and the authority may take possession of the real property when:

A. The copy of the resolution, plat and statement is filed in the registry of deeds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The statement is filed in the Superior Court; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Bonds, to the use of persons entitled to them, are deposited in the Superior Court with surety satisfactory to the clerk of the court in the amounts that the court determines to be sufficient to satisfy the claims of all persons interested in the real property. The court may, in its discretion, take evidence on the question to determine the amounts of the bonds to be deposited. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Service on owners; nonresidents; unknown owners. After the copy, plat and statement are filed, a sheriff or the sheriff's deputies shall serve notice of the taking of the real property upon the owners of the real property by leaving a true and attested copy of the description and statement with each of these persons personally or at their last and usual place of abode in the State or with some person living there.

A. If any of these persons are not residents of the State, a true and attested copy of the notice shall be sent by registered mail, return receipt requested, to those persons at their last known addresses. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. If the ownership of the real property cannot be ascertained after due and diligent search, an award shall be made to persons unknown for the value of the property and bonds for that amount running to the treasurer of the county for the use of persons entitled to the bonds shall be deposited in the Superior Court. If, within 2 years after the bonds are deposited, no person has been able to prove ownership of the real property, the Superior Court shall order these bonds to be cancelled and delivered up to the authority. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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4. Notice published. After the resolution, plat and statement are filed, the authority shall have a copy of the resolution and statement published in a newspaper having general circulation in the county, at least once a week for 3 successive weeks. The statement must set forth the names of the owners of the real property to be taken and the amount awarded to them.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Agreement and cancellation of bonds. When any person agrees with the authority on the price of the real property taken under this section and the sum agreed upon is paid by the authority, the court shall order the bond deposited under subsection 2, paragraph C to be cancelled and delivered up to the authority.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Complaint to Superior Court; trial. Any owner of any real property taken under this section, who cannot agree with the authority on the price of the real property in which the owner is interested, within 3 months after personal notice of the taking or, if the owner has no personal notice, may within one year from the first publication of the copy of the resolution and statement under subsection 4, apply by complaint to the Superior Court in the county, setting forth the taking of the real property and praying for an assessment of damages by a jury or, by agreement of the parties, a referee or referees appointed by the court.

A. When this complaint is filed, the court shall have 20 days' notice of the pendency of the action given to the authority by serving the chairman of the authority with a certified copy of the complaint. The court may proceed after this notice to the trial of the action. This trial shall determine all questions of fact relating to the value and the amount of the real property and judgment shall be entered upon the verdict of the jury. Execution shall be issued for that judgment against the money deposited in the court under subsection 2, paragraph C. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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7. Conflicting ownership. If the authority is in doubt as to conflicting ownership or interest, the authority may file a complaint in the Superior Court for a determination of the various rights and amounts due. If 2 or more conflicting plaintiffs claim the same real property or different interests in the same parcel of real property, the court, upon motion, shall consolidate their several complaints for trial at the same time by the same jury, and may frame all necessary issues for the trial of that action.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Appeal. Appeal from the decision of the Superior Court may be made in the same manner as provided for appeals in civil cases.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Property of infants or incapable persons. If any real property, in which any infant or other person not capable in law to act in their own behalf is interested, is taken by an authority under this chapter, the Superior Court, upon the filing of any complaint by or in behalf of any infant or other person, may appoint a guardian ad litem for the infant or other person. This guardian may appear and be heard on behalf of the infant or other person and may, with the advice and consent of the Superior Court and upon any terms that the Superior Court prescribes, release to the authority all claims for damages for the real property of the infant or other person. Any lawfully appointed, qualified and acting guardian or other fiduciary of the estate of any such infant or other person, with the approval of the Probate Court having jurisdiction to authorize the sale of real property within the State of any such infant or other person, may, before the filing of any such complaint, agree with the authority upon the amount of damages suffered by the infant or other person by any taking of real property and may, upon receiving that amount, release to the authority all claims for damages of the infant or other person for the taking.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Expediting proceedings; taking public property. In any proceedings for the assessment of compensation and damages for real property taken or to be taken by eminent domain by the authority, the following provisions apply.

A. At any time during the pendency of the action or proceedings, the authority or an owner may apply to the court for an order directing an owner or the authority to show cause why further proceedings should not be expedited. Upon this application, the court may order that the hearings proceed and that any other steps be taken with all possible expedition. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. If any of the real property included within the project is devoted to a public use, it may nevertheless be acquired, and the taking is effective, provided that no real property belonging to the municipality or to any government may be acquired without its consent and that no real property belonging to a public utility corporation may be acquired without the approval of the Public Utilities Commission or other officer or tribunal having regulatory power over that corporation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any real property already acquired by the authority may nevertheless be included within this taking for the purpose of acquiring any outstanding interests in the real property. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

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